

Notice of Allowability

Application No.

10/820,322

Examiner

Eric F. Winakur

Applicant(s)

ACOSTA ET AL.

Art Unit

3768

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 2 April 2007.
2. ☒ The allowed claim(s) is/are 1-34,36,37 and 39-94.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date 12/14/06
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Michael Glenn on 7 June 2007. Applicant agreed to amend claim 1 to delete the phrase "wherein said silicon filter is placed before said grating and after said sample site", as this was inconsistent with the limitation that the optical filter is "located between said illumination source and said sample site". Further, claims 1 and 4 will recite the phrase "configured to be" to avoid positively claiming connection between the apparatus and the sample site. Applicant agreed to amend claims 2, 12, and 39, to make them consistent with the amendments to claim 1; correct the dependency of claim 29; and remove the parenthetical comments in claims 62 and 64, as they are not necessary for an understanding of the claimed subject matter.

The application has been amended as follows:

Claim 1 has been amended as follows:

1. An apparatus for noninvasive measurement of glucose through near-infrared spectroscopy, comprising:

a base module comprising a grating and a detector array;

a sampling module, configured to be securely and removeably attached to a sample site, and coupled to said base module, said sampling module comprising an illumination source;

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an optic system configured to be located before and/or after said sample site for coupling said illumination source to said sample and said sample to said detector array;

an optical filter configured to be located between said illumination source and said sample site, wherein said optical filter comprises:

a silicon filter for removing light under 1050 nm, wherein [a] said grating can be used in the 1150 to 1850 nm region without detection of second or higher order light off of said grating, [wherein said silicon filter is placed before said grating and after said sample site,] and

a communication bundle for carrying optical and/or electrical signals between said base module and said sampling module, and for carrying power to said sampling module from said base module.

In claim 2, line 3, "an optical filter," was deleted.

In claim 4, line 3, -- configured to be -- was inserted before "securely".

Claim 12 was amended as follows:

12. The apparatus of claim 10, wherein light is focused through [a] said silicon [window] filter onto an aperture at said sample site[, wherein said silicon window comprises a longpass filter].

In claim 29, line 1, "claim 29" was changed to -- claim 10 --.

In claim 39, line 4 was deleted in its entirety.

In claim 62, line 2, "(wavelength)" was deleted.

In claim 64, line 5, "(standardize)" was deleted.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric F. Winakur whose telephone number is 571/272-4736. The examiner can normally be reached on M-Th, 7:30-5; alternate Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eleni Mantis-Mercader can be reached on 571/272-4740. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Eric F Winakur
Primary Examiner
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